

more particularly point out and amplify the unique nature of Applicants' invention.

Briefly, the Applicants' invention relates to a marker which is a free-standing, integral unit having a base and a body. The body may be in several shapes such as a truncated pyramid or a cone having an upper end. The upper end has multiple receptacles  
5 which define openings of various shapes such as circular, arcuate, rectangular and the like. The openings are spaced-apart so that various types of markers and warning devices such as chemical flares or a flag may be inserted into the openings. The markers are used at crime scenes and in emergency situations to mark or delineate an area and to serve as a warning. The markers are compact and configured so that they may be nestably stacked  
10 for storage.

Claim 13 now specifies the upwardly, converging shape of the marked body which is upwardly converging. The claim also specifies that the base of the markers are formed having a hollow interior so that they may be nestably stacked when not in use. The upper surface is described as defining at least two openings of various shapes to  
15 receive and to temporarily and removably position several types of devices such as warning flags or flares having different shaped ends or bores. Claim 13 also specifies that the marker may be used with V-shaped evidence markers as shown in drawing Figures 9 to 11.

Turning now to the references and the claim rejections, the Ryan device shows a  
20 replaceable guide post such as the type used as a road marker. The base structure comprises a support which receives and engages the lower flange portion of a tubular

post. The guide post has a reflector or other type of marker. A retainer collar is positioned over the base in the lower portion of the guide post, clamping the post therebetween, affixing the base to the ground surface. In paragraph 10, the Examiner points out receptacles 35 are circular. The element 35 is simply a hole or bore by which the base structure can be bolted to the surface. Thus, it is submitted Ryan does not anticipate the Applicants' marker as claimed as the Ryan device is not upwardly converging, the Ryan device is not nestable and does not define a plurality of receptacles in the top surface.

Walker is similarly deficient as an anticipatory reference. Walker shows a light reflecting traffic direction wand. The wand may be positioned in a vertical orientation. Strips of reflective material are secured to the wand. A base has a horizontal surface with an arcuate slot formed in the upper surface to receive the lower end of the wand. The Walker device does not accept a plurality of warning devices, nor is the shape of the base conformed to the requirements of Applicants' claims.

Claim 3 has been rejected over the combination of Walker and Ryan. If one were to combine these references, the result would be some sort of marker device with a base having a flat upper surface with a single receptacle for attachment of a post. To change the shape of the body to that claimed by Applicant and to further modify the body so the bases are stackable, and further modify the resulting device to accept a plurality of warning devices amounts to invention and is not suggested with the combination of Walker or Ryan.

The combination of Walker and Latimer are similarly deficient. While Latimer does show a sign with a plastic base, Latimer does not suggest the shape claimed by the Applicant, nor does Latimer suggest the nestable feature of Applicants' invention.

Walker in view of Anderson and Getsinger has been cited in the system of Claim 5. Claim 5 specifies a top surface defining a plurality of receptacles. As pointed out above, a plurality of receptacles allows a user to selectively and temporarily insert various type warning devices.

The sign holder stake of Anderson shows a stake driveable into the ground. The stake has a clamp so a conventional sign post may be clamped to the support. The stake may also include holes to receive small flag poles for additional traction. Anderson is devoid of suggestion of providing holes and receptacles of different shapes to accommodate different types of warning devices. Getsinger is similarly deficient in that Getsinger teaches a flag pole holder having rectangular openings. Claims 6 and 7 simply recite the addition of a clip and a magnet. No claim, per se, is made to the inclusion of these features aside from the structure set forth in base Claim 13.

Claims 8, 9, 11 and 12 have been rejected under 35 U.S.C. §103 as being unpatentable over Walker in view of Latimer and Anderson. As pointed out above, Walker simply shows a planar base with a single arcuate slot for reception of a light reflecting wand. Anderson shows a stake with a clamp having several holes for insertion of a flag. Latimer is cited as having a hollow support member. The combination of these devices would result in a structure having a flat, planar base which is hollow and having



multiple receptacles of the same configuration. Such a reconstruction according to the references cited would not conform to Applicants' claimed device. Further, combination and modification of references in this manner would itself amount to invention.

5 The Applicants have invented a unique marker for crime scene and emergency situations. The markers are inexpensive and are nestable so a user such as a police officer can easily have a number of markers available. When used, they are placed around the area and the officer or individual can insert the appropriate warning device depending on weather and light conditions. The shape of the markers permits them to be placed against V or tent-shaped evidence markers as shown in drawing Figures 9 to 11. Note none of  
10 the holders or markers in the various references cited, either singularly or in combination, permit such versatile use.

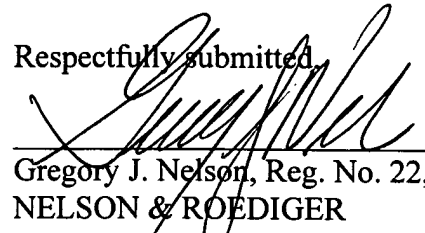
The objection to the drawings has been noted. Upon the finding of allowable subject matter, formal drawings with approved corrections will be submitted.

15 Copies of the informal drawings are enclosed, marked in red with proposed corrections that will be incorporated at such time as formal drawings are submitted.

A favorable action is respectfully solicited.

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Respectfully submitted,

  
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